

## HUMAN SERVICES DEPARTMENT[441]

### Notice of Intended Action

#### **Proposing rule making related to conditions of Medicaid eligibility and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 75, “Conditions of Eligibility,” and Chapter 76, “Enrollment and Reenrollment,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 249A.4 and 2018 Iowa Acts, Senate File 2418, section 107.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 249A.4 and 2018 Iowa Acts, Senate File 2418, section 107.

#### *Purpose and Summary*

Currently, Medicaid may be available to a person who was pregnant or an infant under the age of one during any of the three months preceding the month in which an application is filed. 2018 Iowa Acts, Senate File 2418, section 107, extends this applicability by stating, “[e]ffective July 1, 2018, a three-month retroactive Medicaid coverage benefit shall apply to a Medicaid applicant who is otherwise Medicaid-eligible and is a resident of a nursing facility licensed under chapter 135C.”

These proposed amendments revise the definitions of “retroactive certification period” and “retroactive period” in Chapter 75 to correctly reference subrule 76.13(3), which defines who is eligible for Medicaid coverage during any or all of the three months preceding the month in which an application is filed.

These amendments also update subrule 76.13(3) to reinstate a three-month retroactive coverage benefit for applicants who are residents of a nursing facility licensed under Iowa Code chapter 135C at the time of application and are otherwise Medicaid-eligible.

#### *Fiscal Impact*

This rule making has a fiscal impact of \$100,000 annually or \$500,000 over five years to the State of Iowa. Senate File 2418 reinstates the three-month retroactive Medicaid coverage benefit for residents of nursing facilities if the residents are otherwise Medicaid-eligible during the retroactive period. Reinstating the three-month retroactive Medicaid coverage benefit to this population will allow more eligible people to receive Medicaid benefits during the retroactive months. Funding to restore retroactive eligibility for residents of nursing facilities was authorized during the 2018 Legislative Session.

#### *Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions pursuant to rule 441—1.8(17A,217).

### *Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on November 27, 2018. Comments should be directed to:

Harry Rossander  
Bureau of Policy Coordination  
Department of Human Services  
Hoover State Office Building, Fifth Floor  
1305 East Walnut Street  
Des Moines, Iowa 50319-0114  
Email: [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us)

### *Public Hearing*

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

### *Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule **441—75.25(249A)**, definitions of “Retroactive certification period” and “Retroactive period,” as follows:

“*Retroactive certification period*” for medically needy shall mean one, two, or three calendar months prior to the date of application, as provided in 441—subrule 76.13(3). The retroactive certification period begins with the first month Medicaid-covered services were received and continues to the end of the month immediately prior to the month of application.

“*Retroactive period*” shall mean the three or fewer calendar months immediately preceding the month in which an application is filed, pursuant to 441—subrule 76.13(3).

ITEM 2. Amend subrule 76.13(3) as follows:

**76.13(3) Retroactive enrollment.**

a. Except as provided in paragraph 76.13(3)“e,” medical assistance shall be available for all or any of the three months preceding the month in which an application is filed to a person who was pregnant, ~~or an infant (under the age of one), or a resident of a nursing facility licensed under Iowa Code chapter 135C~~ during any of the three months and who:

(1) and (2) No change.

b. No change.

c. Retroactive medical assistance shall be made available when an application has been made on behalf of a deceased person who was an infant, ~~or was pregnant, or a resident of a nursing facility licensed under Iowa Code chapter 135C~~ if the conditions in paragraph 76.13(3)“a” are met.

d. and e. No change.